

**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.**

20508

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2004-01

**FOR IMMEDIATE RELEASE:
JANUARY 8, 2004**

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**U.S. Elevates Korea to Priority Watch List Based on
Continued Concerns Regarding Film and Music Piracy**

WASHINGTON – The Office of the U.S. Trade Representative today announced that Korea will be elevated to the Priority Watch List as a result of the findings of the Special 301 Out-of-Cycle Review (OCR) concluded in late December 2003. The Review found that growth of online music piracy has caused serious economic damage to both domestic and foreign recording companies, and continued piracy of U.S. motion pictures in Korea has resulted in millions of dollars in lost revenues for U.S. and Korean copyright holders.

“The pirating of U.S. intellectual property robs Americans and hurts those countries whose economies rely on innovation, technology, and investment. The Administration is committed to protecting American creativity and intellectual property, one of the most dynamic sectors of our economy,” said U.S. Trade Representative Robert B. Zoellick. “Open markets and the protection of intellectual property are critical to the continued growth of our economy, and we’ll vigorously press our trading partners to follow the rules.”

The 2003 Special 301 Report, released in May, highlighted a series of continued concerns regarding the lack of adequate protection and enforcement of intellectual property in Korea. The report maintained Korea’s status on the Watch List, pending an Out-of-Cycle Review to be conducted in the fall.

The United States is encouraged by the positive steps taken by Korea, particularly in granting police authority to the Standing Inspection Team responsible for investigating software piracy and more broadly, in the greater efforts it has taken to report cases of infringement to U.S. right holders. However, the U.S. Government found that the Government of Korea has not yet taken necessary action on two of the highest priority issues included in the out-of-cycle review: 1) fulfilling its April 2002 commitment to submit legislation providing for the full right of transmission for sound recordings; and, 2) fulfilling its commitment to fully resolve the film piracy issue as it pertains to the Korea Media Rating Board (KMRB). As a result, the U.S. Government has decided it must elevate Korea to the Priority Watch List.

Korea joins eleven other trading partners already on the Priority Watch List whose IPR problems will be subject to increased bilateral attention. The U.S. Government urges Korea to address these outstanding issues expeditiously. Bilateral consultations, which will include detailed

discussions of IPR issues of concern to the United States, are expected to be held in Seoul early this year.

Background:

Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreements Act of 1974, under Special 301 provisions, the Office of the US Trade Representative must identify those countries that deny adequate and effective protection for IPR or deny fair and equitable market access for persons that rely on intellectual property protection. Countries are placed into one of four categories: (1) Priority Foreign Country, (2) Priority Watch List, (3) Watch List, or (4) Section 306 monitoring.

Priority Foreign Countries that fail to enter into good faith negotiations or make significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of IPR may be subject to sanctions. Currently, one country (Ukraine) is designated in this category and subject to \$75 million in sanctions.

Countries that were previously designated a Priority Foreign Country but entered into good-faith negotiations and/or are making progress are placed under Section 306 monitoring; currently, China and Paraguay fall into this category. USTR has also created a "Priority Watch List" and "Watch List" under Special 301 provisions. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection, enforcement, or market access for persons relying on intellectual property.

The Special 301 review occurs annually each April, but out-of-cycle reviews may be conducted at any time to evaluate changes and developments in particular countries. In the 2003 Special 301 Report, released on May 1, 11 trading partners were placed on the Priority Watch List and 36 trading partners were placed on the Watch List. Korea, which was originally on the Watch List, now joins Argentina, Bahamas, Brazil, the EU, India, Indonesia, Lebanon, the Philippines, Poland, Russia, and Taiwan on the Priority Watch List.

Korea is the United States' 6th largest export market. In 2002, two-way trade in goods totaled over \$58 billion. U.S. industry estimates that piracy in Korea caused \$572 million in losses to U.S. copyright owners in 2002. Given the importance of the Korean market to U.S. exporters and to those investing in Korea, and the rapid development of high-tech and information-based industries in Korea over the past several years, adequate protection/enforcement of the broad range of intellectual property rights must become a priority for the Government of Korea.

The five key criteria identified in the 2003 Special 301 Report, issued May 1, for Korea's Out-of-Cycle Review included the following:

- 1) Take all actions necessary to ensure that the Standing Inspection Team (SIT) is granted police powers at the earliest opportunity;

- 2) Draft and submit legislation to the National Assembly that establishes the exclusive right of transmission for sound recordings, including both the full right of making available and the full right of communication to the public, and seek its enactment by the end of 2003;
- 3) Provide additional, new data on the Korean government's enforcement efforts that is sufficient to more fully evaluate the full range of its enforcement activities, including the imposition of deterrent penalties, and sufficient to allow right holders to have the opportunity to take action against infringers who are not convicted.

In addition, in order to resolve the film distribution issues, the Government of Korea should:

- 4) Draft and submit legislation to the National Assembly to grant the Korea Media Rating Board (KMRB) all authority necessary to stop film piracy. This legislation and/or the implementing regulations must: a) clearly provide the KMRB the authority to reject false applications; b) clearly provide the KMRB the authority to cancel existing ratings which were approved on the basis of a false application; and c) not place undue burdens on legitimate rights holders to prove their rightful ownership;
- 5) Fully and faithfully implement its agreement on the "WIPI" intellectual property issue. These issues will be revisited during the next Special 301 Review, which will be completed in April 2004.

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